IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

(1) CIVIL WRIT No. 793 of 2007
TULCHHA
V/S
STATE & ORS.

(2) CIVIL WRIT No. 794 of 2007
LAKMA
V/S
STATE & ORS.

(3) CIVIL WRIT No. 795 of 2007
CHATAR SINGH
V/S
STATE & ORS.

(4) CIVIL WRIT No. 796 of 2007
MAKANA
V/S
STATE

Mr. PS BHATI, for the appellant / petitioner

Date of Order : 18.4.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

All these writ petitions arise in circumstances involving common facts, and are, therefore, being disposed of by this common order.

The learned Collector, Rajsamand by the impugned order dated 21.6.2006, has cancelled the sale effected by the Gram Panchayat to the petitioner, relating to various portions of Khasra No.1648. It has been found by the learned Collector, that from the Jamabandi, it is clear that the land bearing Khasra No.1648 measuring 23 Bigha 7

Biswa is **बिलानाम गैर काबिल काश्त.** This land was never transferred to any of the Panchayats including the Panchayat Kankarva, and therefore, Panchayat has no right, title or interest, so as to be authorised to transfer the land, therefore, the sale has been declared to be void.

It is contended by learned counsel for the petitioner, that the sale was effected way-back in the year 1969, and the revision had been filed in the year 2005, which, in view of this long delay of more than 3 decades, could not be entertained, and for this purpose, reliance is placed on a judgment of this Court in Chiranji Lal Vs. Additional Collector III Jaipur, reported in 2002(1) DNJ (Raj.) 307, and that of the Hon'ble Supreme Court in The Karla State Electricity Board, Trivandrum Vs. T.P. Kunhaliumma reported in AIR 1977 SC 282.

I have considered the submissions.

A look at the impugned order of the learned Collector shows, that the aspect of delay was raised before the Collector, and the contention has been negatived, by placing reliance on a Division Bench judgment of this Court in Chiman Lal Vs. State, writ petition No.1688/83 decided on 18.2.2000, which judgment is said to be reported in 2000 (2) WLC (Raj.)-1, and while relying upon this judgment, the Collector had found, that the revision can be entertained

at any time. So far the judgment in Chiman Lal's case is concerned, that is a case, which arises under the Rajasthan Panchayati Raj Act, while the present matter was raised under Section 27-A of the Rajasthan Panchayat Act 1961, read with Section 97 of the Rajasthan Panchayati Raj Act 1994. This is one aspect of the matter.

The other important aspect of the matter is, that even according to the averments of the writ petition, the Sarpanch of the Gram Panchayat Kankarva allotted the land of Khasra No.1648 at the village of the petitioner, and after that, Gram Panchayat issued the lease deed in favour of the petitioner on 13.7.69. It would suffice to say, that this averment by itself means, that at the time when the land was allotted, it was agricultural land, and not Abadi land. Learned Collector had found, that this land was never placed as disposal of the Gram Panchayat, and a look at the provisions of Rajasthan Panchayat Act 1961 and the rules framed thereunder shows, that there is no power with the Gram Panchayat to make such allotment of agricultural land to anybody. Whatever provisions are there, that authorise the Panchayat to sell the land, they are all relating to Abadi land. The matter of allotment of agricultural land is a subject matter governed by the rules framed under Rajasthan Land Revenue Act, 1956, and the authorities competent to make allotment are prescribed therein, which do not at all include any Gram Panchayat. On the face of

the averment of the writ petition itself, it is clear that the alleged allotment, and the execution of lease deed, is wholly without jurisdiction, albeit non-est, and is required to be ignored altogether. That being the position, if the Collector has annulled the sale, it cannot be said that the order requires any interference.

There is yet another aspect of the matter, that during pendency of the revision, on 3.5.2006 it was informed by the revisionist to the Collector that the persons in whose favour the transfer has been made have voluntarily removed their possession. It is not shown that this allegation was ever controverted. On the other hand, in the last para, the learned Collector has recorded "पक्षकारान ने भी भूखण्ड पर से स्वेच्छा से कब्जा हटा लेना स्वीकार किया है".

In the writ petition no averment has been made, to the effect, that this concession was never made, or that the recital is wrong.

Thus, taken from any standpoint, I do not find any sufficient ground to interfere in favour of the petitioner. The writ petitions are, therefore, dismissed summarily.

(N P GUPTA),J.

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